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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-91

13 **APRIL NOEL DILLON**
1915 E. Portland Avenue
14 **Fresno, California 93720**
Registered Nurse License No. 503359

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about September 9, 1994, the Board issued Registered Nurse License Number
24 503359 to April Noel Dillon, also known as April Noel Rogers ("Respondent"). The registered
25 nurse license will expire on January 31, 2010, unless renewed. On July 13, 2009, the Board filed
26 a Petition and Memorandum of Points and Authorities in Support of Petition for Interim
27 Suspension Order for License No. 503359, April Noel Dillon, Case No. 2010-13. Following a
28 hearing on the Petition for Interim Suspension Order, Administrative Law Judge Ann Elizabeth

1 Sarli ordered Respondent's Registered Nurse License Number 503359 suspended, effective
2 August 5, 2009, through the pendency of the disciplinary proceedings.

3 **STATUTORY PROVISIONS**

4 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
5 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
6 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
7 Nursing Practice Act.

8 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
9 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
10 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
11 (b), the Board may renew an expired license at any time within eight years after the expiration.

12 5. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
13 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
14 period within which the license may be renewed, restored, reissued or reinstated.

15 6. Code section 2761 states, in pertinent part:

16 The board may take disciplinary action against a certified or licensed
17 nurse or deny an application for a certificate or license for any of the following:

18 (a) Unprofessional conduct....,

19 7. Section 2762 of the Code states:

20 In addition to other acts constituting unprofessional conduct within the
21 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

22 (a) Obtain or possess in violation of law, or prescribe, or except as
23 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
himself or herself, or furnish or administer to another, any controlled substance as
24 defined in Division 10 (commencing with Section 11000) of the Health and Safety
Code or any dangerous drug or dangerous device as defined in Section 4022.

25 (b) Use any controlled substance as defined in Division 10 (commencing
26 with Section 11000) of the Health and Safety Code, or any dangerous drug or
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
27 in a manner dangerous or injurious to himself or herself, any other person, or the
public or to the extent that such use impairs his or her ability to conduct with safety to
28 the public the practice authorized by his or her license.

1 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
2 unintelligible entries in any hospital, patient, or other record pertaining to the
3 substances described in subdivision (a) of this section.

4 8. Code section 4060 states, in pertinent part:

5 No person shall possess any controlled substances, except that furnished
6 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
7 veterinarian, or naturopathic doctor....

8 9. Health and Safety Code section 11173, subdivision (a) provides that no person shall
9 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
10 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
11 or subterfuge; or (2) by the concealment of a material fact.

12 COST RECOVERY

13 10. Code section 125.3 provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licensee found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 11. DRUGS

18 "Alprazolam" is a Schedule IV controlled substance as designated by Health and Safety
19 Code section 11057, subdivision (d)(1) and a dangerous drug under Code section 4022 in that
20 under federal or state law it requires a prescription.

21 "Norco" is a combination drug containing hydrocodone bitartrate 10 mg and
22 acetaminophen 325 mg, and is a Schedule III controlled substance as designated by Health and
23 Safety Code section 11056, subdivision (e)(4), and is a dangerous drug under Code section 4022
24 in that under federal or state law it requires a prescription.

25 "Lorazepam" is a Schedule IV controlled substance as designated by Health and Safety
26 Code section 11057, subdivision (d)(11) and is a dangerous drug under Code section 4022 in that
27 under federal or state law it requires a prescription.

28 "Vicoprofen" is a tradename for the narcotic substance hydrocodone bitartrate with a non-
narcotic substance ibuprofen and is a Schedule III controlled substance as designated by Health

1 and Safety Code section 11056, subdivision (e)(3) and a dangerous drug under Code section 4022
2 in that under federal or state law it requires a prescription.

3 **BACKGROUND**

4 12. Between May 9, 2006, and September 3, 2008, Respondent was married to Thomas
5 Dillon. During the same time period, Respondent was employed as a registered nurse at
6 Hematology-Oncology Medical Group of Fresno, Inc., ("Group"). Physicians in the Group
7 included Dr. Leonard Thomas Hackett and Dr. David Koster.

8 13. From time to time in the course of the Group's medical practice, employees are
9 issued prescriptions from the physicians if appropriate. The employee is required to maintain a
10 medical chart and record the prescription.

11 14. In or about August 2008, the Group's administrator, Shelly Sonksen
12 ("administrator"), was notified by the Costo's pharmacy of excessive prescription narcotic
13 medications acquired by Thomas Dillon and that Dr. Koster was listed as the prescribing doctor.
14 Thomas Dillon was never a patient of the Group. Based on the foregoing, the administrator
15 initiated an internal investigation that revealed evidence that Respondent had used her nursing
16 position with the Group to call in prescriptions, and/or had conspired with Angela Daggett, a
17 registered nurse also employed by the Group, to call in prescriptions for each other. Further,
18 Respondent falsely represented to other Group nurses and staff, who called in prescriptions
19 obtained by Respondent and Thomas Dillon, that said prescriptions were authorized by Group
20 physicians. As a result of the investigation, Respondent's employment with the Group was
21 terminated on September 4, 2008.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Obtain and Possess Controlled Substances in Violation of Law; Self-Administration)**

24 15. Respondent is subject to disciplinary action pursuant to Code section 2761,
25 subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762,
26 subdivision (a), in that between May 9, 2006, through September 3, 2008, while employed as a
27 registered nurse at the Group, Respondent committed the following acts:
28

1 a. Respondent obtained large quantities of the controlled substances Norco, Alprazolam,
2 Lorazepam, and Vicoprofen for her and her husband's use by fraud, deceit, misrepresentation, or
3 subterfuge by altering prescriptions and/or using her registered nurse position to manipulate
4 others into calling in prescriptions to various pharmacies, in violation of Health and Safety Code
5 section 11173, subdivision (a), as evidenced by Tables 1 and 2, attached hereto as Exhibits A and
6 B, and incorporated herein by reference.

7 b. Respondent possessed large quantities of the controlled substances Norco,
8 Alprazolam, Lorazepam, and Vicoprofen without lawful authority, in violation of Code section
9 4060, as evidenced by Exhibits A and B, and incorporated herein by reference.

10 c. Respondent self-administered large quantities of the controlled substances Norco,
11 Alprazolam, Lorazepam, and Vicoprofen without lawful authority.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Prescribing Controlled Substances without Lawful Authority)**

14 16. Respondent is subject to disciplinary action pursuant to Code section 2761,
15 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
16 subdivision (a), in that while on duty as a registered nurse at the Group, Respondent prescribed
17 controlled substances to Angela Marie Daggett, also known as Angela Marie Riggs ("Daggett"),
18 who was also employed with the Group, by calling in the following prescriptions without lawful
19 authority to Von's Pharmacy for Daggett, in violation of Health and Safety Code section 11173,
20 subdivision (a):

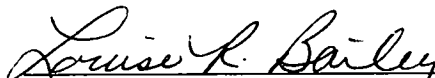
Date	Medication	Quantity	Formulation
8/1/07	APAP Hydrocodone (Norco)	90	325 mg/10 mg
8/1/07	Alprazolam	40	1 mg
11/1/07	Alprazolam	40	1 mg
1/24/08	Alprazolam	40	1 mg
1/24/08	APAP Hydrocodone (Norco)	90	325 mg/10 mg
2/28/08	Alprazolam	40	1 mg

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2. Ordering April Noel Dillon, also known as April Noel Rogers to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/19/09


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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